IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9428 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAVIN A CHADDHA

Versus

G.S.R.T.C.

Appearance:

1. Special Civil Application No. 9428 of 2002

MR NIRAV C THAKKAR for Petitioner No. 1

MR ASHISH DAGLI for respondents

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 30/09/2002

ORAL JUDGEMENT

1. Rule. Mr. Ashish Dagli, learned advocate appears and waives the service of notice of rule on behalf of the respondents.

2. By means of filing this petition, petitioner who is running a canteen at respondent No.2 depot since 1954 from the time of his father who has been given licence to run the canteen and whose licence is to expire today i.e., 30.9.2002 has prayed to issue a writ of mandamus or or a writ in the nature of mandamus or any other appropriate writ, order or direction directing the respondents to call the petitioner for negotiations before allowing any third party to take over the canteen from the petitioner as per the settled norms of respondent No.1 by way of circlers.

3. Mr. Ashish Dagli, learned advocate for the respondents, makes a statement that pursuant to the public advertisement inviting tenders, the respondent Corporation has received two offers, one from the petitioner and another from some other party. He further states that there is outstanding dues in respect of municipal taxes from the petitioner and if the petitioner is ready to pay the amount due and payable by him as per the directions of the respondent Corporation, the respondent Corporation will call the petitioner for negotiations before allowing any third party to take over the canteen from the petitioner as prayed for by the petitioner.

4. Mr. Nirav Thakkar, learned advocate for the petitioner, states that petitioner is ready to pay whatever may be the amount outstanding towards municipal taxes as may be directed by the respondent Corporation. He further states that till the process of tender is finaled the respondents may be directed not to give the possession of the canteen to any third party.

5. Having considered the aforesaid statements made by the learned advocates appearing for the parties and on having perusal of the averments made in the memo of the petition, grounds set out therein and the facts and circumstances emerging from the record of the case, I am of the opinion that this petition deserves to be disposed of on following terms:

(i) The petitioner shall pay the outstanding dues of RS.70,000/- or whatever may be the outstanding amount due from the petitioner towards the municipal taxes as per the direction of the respondent Corporation;

(ii) On aforesaid amount of municipal taxes being paid by the petitioner or agrees to be paid by the

petitioner, the respondent Corporation shall call the petitioner for negotiations with regard to the tender in question;

(iii) On the petitioner paying the licence fee, rent, agreed charges, municipal taxes, etc., during the interregnum period, the respondents are restrained from taking over possession of the canteen from the petitioner till the tender is finalised;

(iv) If the petitioner fails to give higher offer in the negotiations and the respondents decide to give the canteen to any third party, the petitioner shall handover the possession of the canteen to the respondent Corporation forthwith.

6. In view of the aforesaid directions, the petition stands disposed of with no order as to costs. Rule is made absolute to the aforesaid extent.

(A.M. Kapadia, J.)

(karan)